



UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

The Charter Oak Fire Insurance Company,

Plaintiff,

- against -

Alpha Omega Realty LLC, Alpha Omega
Building Consulting Corp., and Anthony
Frascone,

Defendants.

22 Civ. 815 (KMK)

ORDER

PAUL E. DAVISON, U.S.M.J.:

This diversity action arises from an insurance contract for Workers' Compensation between the Charter Oak Fire Insurance Company ("Plaintiff") and Alpha Omega Realty LLC, Alpha Omega Building Consulting Corporation, and Anthony Frascione (together, "Defendants"). Plaintiff alleges that Defendants have breached the contract and that they made false representations on their application to Plaintiff for coverage. Ovation Risk Planners, Inc. ("Ovation Risk") is an insurance agency that was involved in preparing Defendants' application to Plaintiff.

On May 31, 2022, Plaintiff's counsel duly served Ovation Risk with a Subpoena to Produce Documents, Information, or Objects. Dkt. #35-1, Subpoena & Affidavit of Service. Plaintiff's counsel's subpoena requested that Ovation Risk produce documents by June 15, 2022. Dkt. #35-1. Plaintiff's counsel has represented that: (i) Ovation Risk did not produce documents responsive to Plaintiff's counsel's subpoena by the original June 15, 2022 deadline; (ii) Plaintiff's counsel was contacted by counsel for Ovation Risk and granted an extension to June 30, 2022; (iii) Plaintiff's counsel did not receive the responsive documents by June 30, 2022; (iv) Plaintiff's counsel made additional attempts to contact Ovation Risk throughout August and September 2022; and (v) Ovation Risk has not responded to Plaintiff's counsel regarding the production of the documents. Dkt. 35.

Presently before this Court is Plaintiff's request for an order to compel Ovation Risk's compliance with the subpoena. It is apparent from the record that: (i) despite having been properly served with a subpoena, Ovation Risk has failed to produce documents responsive to Plaintiff's counsel's subpoena by the noticed date or by the extended deadline, and (ii) Ovation Risk have not responded to Plaintiff's counsel's subsequent communications. Accordingly, it is

ORDERED that counsel for Ovation Risk shall appear before this Court on Tuesday, October 11, 2022 at 11:30 a.m. at the Hon. Charles L. Brieant, Jr. Federal Building and United States Courthouse, 300 Quarropas Street, White Plains, New York

10601, Courtroom 420. The in-person conference will be cancelled upon the Court's receipt of notification from Plaintiff's counsel that Ovation Risk has complied with the subpoena.

NOTICE TO OVATION RISK (through counsel):

If you do not appear before this Court on October 11, 2022 at 11:30 a.m. in Courtroom 420, you may be held in contempt of court and subject to sanctions.

Plaintiff's counsel is directed to serve a copy of this Order on Ovation Risk's counsel within five (5) days of the date of this Order, and to file proof of service promptly thereafter.

Dated: September 27, 2022
White Plains, New York

SO ORDERED.

A handwritten signature in dark ink, appearing to read 'Paul E. Davison', is written over a horizontal line.

Paul E. Davison, U.S.M.J.